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## POWERS OF THE FRENCH PRESIDENT.

BY THE HON. HANNIS TAYLOR, UNITED STATES MINISTER TO  
SPAIN.

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THE representative system of government is the invention of the Teutonic nations, and England only among those nations has been able to perpetuate it from the barbarian epoch to the present time. In that way she has become "the mother of parliaments," the teacher of the science of representative government to all the world. Every representative assembly now existing in the old world or the new is a mere reproduction of the English parliamentary idea modified and adapted to the special circumstances of the country in which it has been reproduced. All such reproductions may be divided into two classes: first, those in which the executive power is republican; second, those in which the executive power is monarchical.

The English colonies in America were the first to reproduce the parliamentary system of the mother country in the assemblies of their several provincial states, which sprang up, not as the result of conscious imitation, but as the predestined product of a natural process of reproduction. Rejecting nobility and kingship as unsuited to their condition, these states simply continued the English two-chamber system, with such modifications as were necessary to adapt it to a republican form of government,

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in which the chief magistracy was elective and not hereditary. The highest development of that idea was reached in the making of the present constitution of the United States, by which an elective President with a fixed term of four years was clothed, as nearly as possible, with the constitutional powers at that moment exercised by the King of England. It is all important to remember, in view of what will be said hereafter, that the makers of the American Constitution "had before them not a generalized English king nor an abstract constitutional monarch; it was no anticipation of Queen Victoria, but George III. himself, whom they took for their model." This fact is important, because the constitutional powers and status of George III. were utterly different from those of Queen Victoria, for the reason that at the time of the making of the American Constitution the modern English cabinet, which now exercises the royal functions, did not exist, or, if it did exist, "it was so unmaturing that its true nature had not been perceived." Taking as their model an English king, who both reigned and governed, the American framers constructed the presidential office upon that basis; and that creation, which has been in successful operation for more than a century, has been copied by all the Spanish-American republics from Mexico to the Straits of Magellan. The experiment of a republican president, modelled after the English sovereign of to-day, whose constitutional functions are exercised by a cabinet council, whose existence may end at any moment at the bidding of a popular assembly, has never been tried in the new world. In France only has that novel experiment been made, and after an experience of a quarter of a century she is now in a position to estimate its practical value.

The English parliamentary system was never accepted by any of the continental nations until after it had been popularized by its American experience, and commended to Europe, largely upon that basis, by that school of French thinkers, who at the end of the last century began to advocate its adoption. According to Guizot's famous canon this great idea had to pass through France before it received general acceptance. Thus it was that within less than a century representative assemblies after the English model have been set up in France, in Spain and Portugal, in Holland and Belgium, in Germany, Italy and Austria—in all the European nations, in fact, except Russia and Turkey. The great

feature which distinguishes all of these European reproductions is embodied in the fact that along with the English bicameral system has been accepted the English idea of ministerial responsibility in the form in which it exists at the present day. Amongst the European nations who have thus attempted a conscious reproduction of the English polity, France alone is republican ; but when that has been said, the fact remains that her present constitution is the closest approach ever made to the English original. So far as central political organization is concerned, the existing constitution of France was made strictly after the British model. As in the English system, the supreme powers are vested in two chambers, which have the right to change the constitution without limit when acting jointly as a national assembly. There is no tribunal like the Supreme Court of the United States to pass upon the validity of national laws ; the only body competent to pass upon the constitutionality of legislation is the Legislature itself. In constructing the executive power the makers of the present French constitution took as their model the English sovereignty as it existed in 1875, just as the makers of the American constitution took as their model the same sovereignty as it existed in 1787. The divergence in the result thus attained in the construction of these two greatest republican executives is as wide as the difference which divides the two originals from each other. After a century of experience the executive power in the United States stands out as the most successful part, perhaps, of the whole federal system. It has been a firm, stable, and moderating influence in the midst of purely democratic institutions with which it has perfectly harmonized. After a quarter of a century of experience, the executive power as now constituted in France stands out as the one great failure in a constitution which has otherwise been France's most permanent and successful republican experiment. It may be truly said that the old kings of France reigned and governed ; that a constitutional monarch now reigns in England, but does not govern ; that the President of the United States governs, but does not reign ; while the President of the French Republic neither reigns nor governs. In that way France has been deprived of stable and continuous executive leadership at a critical period in her history. The President from the very constitution of his office cannot supply it ; and experience has demonstrated that ministries

appointed by him under the existing system cannot supply it.

That charge is capable of mathematical demonstration. Not long ago the *Figaro* made a statement of all the ministries that have existed in France since February, 1871, and of their relative duration. From that it appears that within that time there have been thirty-four (to which three more must now be added), with an average life of scarcely eight months; and, including those persons who have gone out of office when partial changes were made, that during the same period there have been more than 200 different ministers in office. President MacMahon governed with eight cabinets, Grévy with twelve, Carnot with ten, and certainly no improvement has taken place under the two presidents who have succeeded since that time. The French presidency, which is a solecism in the history of republican institutions, may therefore be said to have broken down under the test of actual experience for the reason that it has failed to attain even approximately the results produced by the English original after which it was modelled. A simple comparison of the actual workings of the two systems during substantially the same period of time will put that statement beyond question. During the last twenty-eight years, there have been in England but nine ministries, as follows: Dec. 9, 1868, Gladstone; Feb. 21, 1874, Beaconsfield; April 28, 1880, Gladstone; June 24, 1885, Salisbury; Feb. 6, 1886, Gladstone; Aug. 3, 1886, Salisbury; Aug. 18, 1892, Gladstone; March 3, 1894, Rosebery; July 2, 1895, Salisbury. It thus appears that there have been but nine English ministries within a period of twenty-eight years with an average life of more than three years against at least thirty-seven French ministries within twenty-five years with an average life of scarcely eight months. And worst of all, this utterly inefficient executive system which is now depriving France of the benefits of a coherent and continuous policy manifests a tendency to become still more unstable every day. The natural result of the uncertainty and unrest arising out of this unfortunate condition of things is a continual cry for constitutional revision which must inevitably take place in the near future. The mighty problem which France must solve when that revision is made is this: Shall the present constitution be weakened by changes which will only intensify the present instability of the executive

power ; or shall it be perfected and strengthened by a reconstruction of the executive upon a basis supported by all modern republican experience.

French republicans have every reason to congratulate themselves upon the success of their present constitution considered as a whole when the immense difficulties attending its construction have been justly estimated. The growth of monarchy in France gradually crushed the life out of all the older forms of popular government, both central and local, which had sprung from the institutions of earlier times. By the sixteenth century in France, as in the rest of continental Europe, every effort made to establish representative government had come to an end. Then it was that the free constitutions of Castile and Aragon were overthrown by Charles V. and Philip II.; then it was that the States-General of France met for the last time (1614) prior to their final meeting upon the eve of the French Revolution. The statesmen of the Revolution thus removed by nearly two centuries from actual experience of representative government, and misled by the impracticable theories of Rousseau and Sieyès, undertook for the first time in the world's history the impossible task of constructing *a priori* constitutions founded on speculative assumptions unsupported by historical precedents. The utter and hopeless failure of all such experiments served a good purpose, however, in convincing Europe in general and France in particular that viable constitutions cannot be made in that way. Under the influence of that conviction a reaction set in about 1814 and 1815, which has gradually impelled Europe to re-establish representative government upon the basis of the English system embodied in an historical constitution which has been gradually developed through a long period of stormy experience. Upon that sure and conservative basis French statesmen constructed in 1875 the present constitution, which went into effect in the following year.

That work of adaptation was in some respects far more delicate and difficult than that undertaken by the framers of the American constitution in 1787, for three reasons : first, because there was no community of race ; second, because there was no community of law as a basis of individual right ; third, because France did not possess a system of naturally organized self-governing communities as a congenial basis upon which to erect the central parlia-

mentary system. What the French Revolution did not destroy was the system of centralized administration which the monarchy had developed ; the legislators of the Revolution attempted to do no more than reorganize and simplify that system. The Constituent Assembly simply gave order and symmetry to local administration, when in December, 1789, it carved out of the old provinces of France the eighty-six existing departments now divided into arrondissements, each arrondissement being subdivided into cantons, and each canton into communes. Upon that artificial and bureaucratic substructure, with no historical connection with the traditions of the older freedom, have been superimposed the several systems of popular government that have followed each other in France since the great upheaval which substituted the absolute sovereignty of the people for the indefensible sovereignty of the King. And yet the chief difficulty in the practical operation of the existing system has not arisen, as might have been expected, out of a lack of cohesion between the parliament at Paris and the local communities from which its life is drawn. The one great difficulty disclosed by experience has arisen out of the impossible attempt to put a republican president into the shoes of a modern constitutional monarch whose functions are exercised by a ministry which in France is the servant of two popular assemblies. In making that dangerous experiment the French statesmen of 1875 marred their work by departing from the firm basis of historical experience into the unknown realm of abstract speculation, and what inevitably happens in all such cases has taken place. Nobody had ever attempted such a thing before, and no one has been bold enough to attempt such a thing since.

A careful student of the English constitution who clearly comprehends the subtilty of that part of its mysterious organization which regulates the relations of the crown with the chambers, and the chambers with each other, through a set of unrecorded conventions, can understand in a moment why that part of its intricate machinery cannot be adapted to a republic with a written and dogmatic fundamental law. In the first place the fiction is that the English sovereign really governs as of old ; the fact is that she does not govern at all. The fiction is that the two chambers are co-ordinate and co-equal ; the fact is that the real sovereignty resides in the

House of Commons. In the French, as in all other republican constitutions, the two chambers are really co-ordinate and co-equal, and therefore capable of conflict, and that of itself is sufficient to derange the entire mechanism as demonstrated by a very recent experience fresh in the minds of everybody. To that difficulty must also be added the fact that a republican president taken from the ranks of the people cannot be clothed with the mysterious awe and dignity with which time alone can robe a king. But no matter what the reasons may be, the fact remains that this subtle monarchical organism has never been successfully grafted upon a republican system, and the fate of the attempt in France conclusively proves, certainly so far as she is concerned, that the undertaking is impracticable. To her it has given an executive power so unstable and precarious that any policy, internal or external, that may be inaugurated is broken up on an average every eight months, and the evil is increasing every day. The genius of no statesman can overcome difficulties inherent in a fatally defective system, and since the inauguration of the present regime nearly all of France's great political chiefs have been discredited generally without any fault of their own. If the evil is continued without remedy the inevitable result will be to discredit the republican plan as a whole, and its enemies will cry out that it is incapable of leading France safely along the difficult and dangerous path which she must certainly tread for a long time to come.

But the fact that the present constitution has proved defective in a vital part is no cause whatever for discouragement, certainly not in view of its great success as a whole. The English and American rule has ever been to test constitutions by time and experience, and then, holding on to what has proved successful, to substitute for the part that has failed some new measure suggested by the failure itself. What France has ascertained from experience is that her executive power, as now constituted upon *a priori* principles, unsupported by any historical precedent, has proved in practice far too unstable to satisfy the end for which it was constituted. It has failed to produce even approximately the good results which flow from a similar expedient, as now employed in England's monarchical system. The remedy is at once plain and unspeculative. Not long ago France, ever generous to and appreciative of the United States, sent her



as a gift a great work of art in which the republic beyond the sea is made to personify upon her own shores "Liberty enlightening the world." The best return that America can make to France for her splendid gift is her experience of a hundred years with the Presidential office, which has been the most successful part, perhaps, of her present constitution. All that the French Republic now requires is such a firm, stable, and continuous policy as the reproduction of the American presidency would surely impart. During its long and prosperous history its capabilities have been fully tested in the crucibles of peace and war, and it has been copied into every important republican constitution with the exception of that of France alone. Upon the present French system it could easily be engrafted without any change whatever in the machinery by which French presidents are now chosen—by the joint ballot of the chambers—machinery which has stood the test of experience.

The great end to be attained is the substitution of an executive thus chosen for a four-years' term with a permanent ministry after the American model, for an executive with a seven-years' term with an ever-changing ministry after the English model. Why should it be difficult for France to accept a system which has always been sufficiently democratic for the United States when its adoption will surely bring to her the stable executive power so necessary for her welfare? Such a change could not fail to have a happy effect upon her internal development, disturbed as it now is by her ever-changing ministries. But the greatest advantage would result from the certain improvement in her foreign policy now so lacking in continuity. No one can look upon the vast and splendid armaments by which the Republic has surrounded itself and be unmindful of the fact that her supreme thought is preparedness for war. No part of that wise system of preparation is more important than that which embraces the making of alliances, and alliances can only be made firm and enduring by a strong and stable executive. All who are well informed as to international politics perfectly understand the interest and anxiety with which France's great ally now looks to the effects upon her foreign policy of the existing system. And then, last and most of all, when the trying moment comes for which all this preparation has been made, what can France expect from an institution which labors with difficulty even in the calm

waters of peace and prosperity. Nothing is to be more apprehended than the probability that when the crisis comes France will prove to be weakest where she should be strongest. In the adoption of the American presidency she would be safe in the possession of an executive power which under the severest trials has proven itself to be equal to the storm and stress of war, both foreign and domestic.

The gravest objection that will be made in France to a reproduction of the American presidential system will be based, no doubt, upon the idea that under that system the executive power is too far removed from the chambers and too little subject to their domination and control. Such an objection will, however, lose very much of its force when the fact is remembered that under the system of committee organization as it exists in the French chambers, the chambers themselves have long ago assumed control of the supreme political question involved in the subject of national finance. While other committees simply consider and report upon ministerial measures, the Budget Committee of the Chamber of Deputies, composed of thirty-three members, and the Finance Committee of the Senate, composed of eighteen members, by revising and transforming ministerial proposals, really shape the financial policy of France to a greater extent than like committees now control the finances of the government at Washington. By simply continuing such control the French Chambers could still overshadow the executive in the one vital particular in which they naturally desire to be supreme. With the same end in view, it would, no doubt, be well to continue that provision of the present constitution which, while denying to the French President the right to veto legislation, puts it in his power to demand of the Houses the reconsideration of any measure which in his judgment has been unwisely enacted. It would not be necessary to change the constitution of the Council of Ministers considered as an administrative body, appointed by the President, and as such subject to his direction and control. It would only be necessary to abolish that aspect of the Council in which its members appear as the political body known as the Cabinet, and as such responsible to the Chambers not by virtue of any positive law, but by virtue of an unrecorded understanding, as in England. The Council of Ministers as an administrative body is recognized by

law ; the Cabinet, a political body composed of the same persons, is not. By simply shortening the term of the President with the understanding that he should no longer be controlled by the Chambers through the Council of Ministers acting in their political capacity as a Cabinet, the end in view could be attained by simply changing one positive law. In order to preserve the close inter-communication now existing between the executive and the Chambers—a particular in which the American constitution is deficient—that provision could be advantageously continued, which now permits the French Ministers, whether members of the Houses or not, to attend their sessions and to take a privileged part in the debates. In that way could also be continued the right of interpellation in that narrower form which permits any member of either house, after due notice, to require of any Minister to answer as to any affair of state as to which an answer can be given without detriment to the public interest. Of course with the extinction of the Cabinet as a political body directly responsible to the Chambers, would end that broader method of interpellation now employed to challenge its policy upon such serious questions as are expected to end in a vote of confidence or want of confidence. The day upon which republican France is delivered from that kind of agitating procedure will be the most fortunate in her history. And here let the fact be emphasized that it is not a necessary condition of parliamentary government that Ministers who carry on the work of administration should be subject to dismissal at any moment by one or both Chambers. While the power of a representative Chamber to dismiss ministers at will may be tolerable or even desirable in a country like monarchical England, where it is exercised on an average not oftener than once in three years, it is certainly intolerable in republican France, where it is exercised on an average every eight months. When the time for revision comes, those who wish to discredit and destroy the Republic will strive to abolish the Senate and thus render the executive power still more unstable by making it the servant of a single popular assembly, while those who wish to give it a new lease of life will unite in reconstructing the executive power upon the model so successfully employed by the United States for more than a century.

HANNIS TAYLOR.